

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES ENCINAS,

Plaintiff(s),

v.

UNIVERSITY OF WASHINGTON,

Defendant(s).

CASE NO. 2:20-cv-01679-TL

ORDER REFERRING MOTION

This matter comes before the Court on Plaintiff James Encinas's motion for reconsideration of a prior denial of his request for counsel (Dkt. No. 23) and his subsequent corrected request for counsel (Dkt. No. 30). Plaintiff is currently proceeding *pro se* and *in forma pauperis* in this action. Dkt. No. 4.

The procedural posture of this case is unique as it relates to Plaintiff's request for counsel and warrants a brief explanation. This case arises out of Plaintiff's claims of employment discrimination under Title VII against Defendant University of Washington. Dkt. No. 5 at 4. On September 30, 2022, the Court issued an order that, in relevant part, addressed Plaintiff's motion

1 for reconsideration (the “September 30 Order”). Dkt. No. 29. The Court noted that Plaintiff’s
2 original request for the appointment of counsel (Dkt. No. 6) had used the wrong form, which
3 mis-identified Plaintiff’s case as *not* a Title VII case, and that therefore the incorrect legal
4 standard had been applied to evaluate Plaintiff’s request for the counsel. Dkt. No. 29 at 18–19.
5 Given this error, the Court found in this unique instance that Plaintiff’s request for counsel
6 warranted a second look and referral to the Screening Committee of the Pro Bono Panel for its
7 consideration. *Id.* at 17–19.

8 This District has implemented a plan for court-appointed representation of civil rights
9 litigants. The plan currently in effect requires the Court to assess a plaintiff’s case before
10 forwarding it to the Screening Committee for further review and a possible appointment of *pro*
11 *bono* counsel. *See* General Order 16-20 § 3(c) (W.D. Wash. Dec. 8, 2020). Specifically, the
12 Court must determine a plaintiff’s financial eligibility and that the case is not frivolous. *Id.*

13 As explained in the September 30 Order, Plaintiff’s submissions satisfy the Court that
14 there is an adequate basis to refer his case to the Screening Committee. Dkt. No. 29 at 20–21.
15 The Court therefore stayed its consideration of Plaintiff’s motion for reconsideration and directed
16 Plaintiff to submit “a new request for the appointment of counsel using the correct form,” which
17 would accurately identify his case as a Title VII case.¹ *Id.* at 22. The Court stated that, upon
18 receipt of “a corrected request for the appointment of counsel,” the corrected request would be
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21 ¹ The application for the appointment of counsel in a non-Title VII civil rights case is materially different from the
22 application for the appointment of counsel in a Title VII case, most notably by including an authorization for the
23 release of information from the Equal Employment Opportunity Commission and the Washington State Human
24 Rights Commission to the Screening Committee and any *pro bono* counsel who may be selected. *Compare*
Application for Court-Appointed Counsel,
<https://www.wawd.uscourts.gov/sites/wawd/files/AppIforCourtAppCounsel-Non-Empl.pdf>, with Application for
Court-Appointed Counsel in Title VII Action,
<https://www.wawd.uscourts.gov/sites/wawd/files/AppIforCourtAppCounsel-EmplDiscrim.pdf>.

1 forwarded to the Screening Committee for the Pro Bono Panel. *Id.* at 22–23. Plaintiff timely
2 submitted a renewed and corrected request for counsel. Dkt. No. 30.

3 The Court issued a text-only minute order on October 4, 2022, directing the Clerk of the
4 Court to forward Plaintiff’s request for counsel to the Screening Committee. Dkt. No. 31.
5 Finding it advisable to issue a full, signed order instead, this Order replaces the October 4 order.

6 Accordingly, the Court ORDERS as follows:

7 (1) The Clerk of the Court is DIRECTED to forward the operative complaint (Dkt. No.
8 5), the corrected request for counsel (Dkt. No. 30), and the pleadings and
9 documents filed to date to the Screening Committee.

10 (2) The Screening Committee is DIRECTED to review the case and make a
11 recommendation to the Court as to whether the appointment of *pro bono* counsel
12 is warranted in this case, in accordance with General Order 16-20, on or before
13 **November 4, 2022.**

14 (3) The Court’s October 4 minute order is STRICKEN.

15 (4) Plaintiff is reminded that his motion for reconsideration (Dkt. No. 23) and
16 therefore his request for the appointment of counsel (Dkt. Nos. 6, 30) remain
17 pending, and a referral to the Screening Committee does not guarantee that *pro*
18 *bono* counsel will be provided to him.

19 Dated this 5th day of October 2022.

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21 _____
22 Tana Lin
23 United States District Judge
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